

**Notice of Allowability**

Application No.

10/076,224

Examiner

Mohammed Hasan

Applicant(s)

MILES ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/11/2003.
2. ☒ The allowed claim(s) is/are 1, 4 - 7, 9 - 32.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
- (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
- (c) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. 3.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449). Paper No. \_\_\_\_\_.
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_.
- 6 ☒ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

*Georgia Epps*  
Georgia Epps  
Supervisory Patent Examiner  
Technology Center 2800

## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. The data provided for " Related Applications" in the first paragraph of the specification is updated as follows:

The application has been amended as follows:

In the specification

(Page 1, line 3 – 16) delete the current paragraph appearing at the top of the first page of the instant Specification replace it with the following - - This application is continuation-in-part of U.S. patent application serial number 09/378,143, filed August 20, 1999, now abandoned, which is a continuation of U.S. patent application Serial No. 08/744,253 filed November 5, 1996, now issued as U.S. Patent No. 5,986,796; a continuation-in-part of U.S. patent application Serial No. 09/056,975, filed April 8, 1998; and a continuation-in-part of U.S. patent application Serial No. 09/974,544, filed October 10, 2001, which is a divisional of U.S. patent application Serial No. 08/769,947, filed December 19, 1996, now abandoned, which is a continuation-in-part of U.S. patent application Serial No. 08/ 554,630 filed November 6, 1995, now abandoned, which is a continuation-in-part of U.S. patent application Serial No. 08/238,750, filed May 5, 1994, now issued as U.S. Patent NO. 5,835,255, all incorporated here by reference - -.

***Allowable Subject Matter***

2. Claims 1, 4 – 7, 9 – 32 are allowed.
3. The following is an examiner's statement of reasons for allowance: The prior art taken either singularly or in a combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims 1 and 27 for example which include a two walls defining a cavity having a cavity dimension, the cavity dimension changes in response to electrostatic forces applied to the cavity, where the cavity dimension determines an optical response to light incident on the cavity, the optical response based on interference and at least two electrical structure configured to apply electrostatic forces in the vicinity of the cavity, the electrical structures being independently controllable.

***Drawings***

4. New corrected drawings are required in this application because some figures are shadow and hand written numbers. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to

the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammed Hasan whose telephone number is (703) 306-0089. The examiner can normally be reached on M-TH, 7:00 AM to 5:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (703) 308-4883. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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